

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: UTAH

The agency does not apply the trust provisions in any case in which the agency determines that such application would work an undue hardship.

The following criteria will be used to determine whether the agency will not count assets transferred because doing so would work an undue hardship:

1. The client has exhausted all reasonable legal means to regain possession of the transferred asset, or has shown that efforts to regain the asset would be unsuccessful.
2. The client meets the following conditions:
 - a. Without Medicaid, the client would be unable to receive medical care and is at risk of death or permanent disability without the medical care; and
 - b. The client and the client's spouse or parent(s) of a minor child cannot afford to meet the cost of the client's medical needs at home.

Under the agency's undue hardship provisions, the agency exempts the funds in an irrevocable burial trust.

The maximum value of the exemption for an irrevocable burial trust is \$7000.

TN No. 95-09
Supersedes
TN No. 93-40

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STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: UTAH

TRANSFER OF ASSETS--UNDUE HARDSHIP

1917(c) (2) (d)
of the Act

The following criteria will be used to determine whether the agency will not apply a period of ineligibility due to a transfer of assets, because it would work an undue hardship for categorically and medically needy individuals:

1. The client has exhausted all reasonable legal means to gain access to the trust income and principal. It is not reasonable to require the client to take action if a knowledgeable source (such as the client's lawyer or financial institution) confirms that it is doubtful those efforts will succeed. That knowledgeable source must explain the reason for the decision. The local office worker or supervisor must agree that it is doubtful those efforts will succeed. Workers may contact the Policy Development Unit for advice or assistance if needed. It is not reasonable to require the client to take action more costly than the value of the trust; and
2. Without Medicaid coverage, the client will not be able to get the medical care needed AND the client is at risk of death or permanent disability without that care. This must be verified by a physician's statement. All other resources must be considered, including potential disbursements from the trust. Additionally, it must be documented that the client and the client's responsible spouse or parent(s) cannot afford to meet the client's medical needs (count only the income and assets of people who are legally obligated to support the client). The client must verify that the cost of medical care which is not the responsibility of third parties, added to normal living costs, exceeds the available income and assets.

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